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**TITLE 326 AIR POLLUTION CONTROL BOARD****SECOND NOTICE OF COMMENT PERIOD**

LSA Document #08-674

**DEVELOPMENT OF AMENDMENTS TO RULES CONCERNING THE MOTOR VEHICLE INSPECTION AND MAINTENANCE PROGRAM IN LAKE AND PORTER COUNTIES****PURPOSE OF NOTICE**

The Indiana Department of Environmental Management (IDEM) has developed draft rule language for amendments to [326 IAC 13-1.1](#) that will add criteria to determine if an antique vehicle is exempt from the Lake and Porter county motor vehicle inspection and maintenance program. By this notice, IDEM is soliciting public comment on the draft rule language. IDEM seeks comment on the affected citations listed and any other provisions of Title 326 that may be affected by this rulemaking.

**HISTORY**

First Notice of Comment Period: August 27, 2008, Indiana Register (DIN: [20080827-IR-326080674FNA](#)).

**CITATIONS AFFECTED:** [326 IAC 13-1.1](#).

**AUTHORITY:** [IC 13-14-8](#); [IC 13-14-9](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#).

**SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING****Basic Purpose and Background**

The Lake and Porter county motor vehicle inspection and maintenance (I/M) program began in 1984 as a measure to improve air quality in these counties. To help ensure continued compliance with the National Ambient Air Quality Standard for ozone and to contribute to regional attainment efforts, IDEM executed a rulemaking (LSA Document #06-284(F)), which became effective on April 19, 2008, that made certain enhancements to the I/M program. Definitions for antique vehicles and show vehicles were added to the I/M rules at [326 IAC 13-1.1-1](#), and vehicles meeting the definition of "antique vehicle" or "show vehicle" were exempted from the testing requirements of the motor vehicle I/M rule.

"Antique vehicle" is defined by [IC 9-13-2-3](#). That definition states that an "antique motor vehicle means a motor vehicle or motor scooter that is at least twenty-five (25) years old". The breadth of the definition at [IC 9-13-2-3](#) is beyond what was intended by the rulemaking as it exempts approximately 4,600 of the oldest, highest polluting cars and trucks in the testable fleet in Lake and Porter counties from vehicle emissions testing based solely on vehicle age. The intent was to allow vehicles registered as antique vehicles with a historic vehicle license plate and used primarily as demonstration, display, or rally vehicles to be exempt from testing. In order for IDEM to facilitate the process of offering antique or historic vehicle exemptions from the I/M program, this rulemaking proposes to amend [326 IAC 13-1.1](#) to clarify the criteria for determining if a vehicle is an antique vehicle and, therefore, exempt from the I/M program. IDEM is considering the following definition:

"Antique vehicle" means a vehicle that meets the following criteria:

- (1) The vehicle must be at least twenty-five (25) years old and registered and plated as a historic motor vehicle with the Indiana bureau of motor vehicles.
- (2) The vehicle is driven a maximum of three thousand (3,000) miles per calendar year.
- (3) Federally required pollution control equipment for that make and model year vehicle must be in place.
- (4) The vehicle must be presented at a clean air car check vehicle emission test site in accordance with the applicable test cycle to verify that the requirements of (1) through (3) have been met.

Upon completion of the rulemaking, this rule will be submitted to the U.S. EPA for approval as a revision to the state implementation plan.

**[IC 13-14-9-4](#) Identification of Restrictions and Requirements Not Imposed under Federal Law**

No element of the draft rule imposes either a restriction or a requirement on persons to whom the draft rule applies that is not imposed under federal law.

**Potential Fiscal Impact**

The draft rule adds criteria to determine if an antique vehicle is exempt from the I/M program and addresses a regulatory gap created by the existing definition of "antique vehicle". The existing definition of "antique vehicle" exempts 4,600 of the oldest, highest polluting cars and trucks in the testable fleet in Lake and Porter counties. The exemption in the existing definition is based solely on the age of the vehicle. Under the proposed amended definition of "antique vehicle", these 4,600 vehicles will be inspected to ensure that the pollution control systems are intact and operating properly; therefore, IDEM anticipates that the fiscal impact to the state and regulated community will be negligible.

**Small Business Assistance Information**

IDEM established a compliance and technical assistance (CTAP) program under [IC 13-28-3](#). The program provides assistance to small businesses and information regarding compliance with environmental regulations. In accordance with [IC 13-28-3](#) and [IC 13-28-5](#), there is a small business assistance program ombudsman to provide a point of contact for small businesses affected by environmental regulations. Information on the CTAP program, the monthly CTAP newsletter, and other resources available can be found at:

<http://www.in.gov/idem/4108.htm>

Small businesses affected by this rulemaking may contact the Small Business Regulatory Coordinator:

Alison Surface, Senior Environmental Manager

IDEM Compliance and Technical Assistance Program - OPPTA

MC 60-04 IGCS W-041

100 North Senate Avenue

Indianapolis, IN 46204-2251

(317) 232-8172 or (800) 988-7901

[ctap@idem.in.gov](mailto:ctap@idem.in.gov)

The Small Business Assistance Program Ombudsman is:

Megan Tretter

IDEM Small Business Assistance Program Ombudsman

MC 50-01 - IGCN 1307

100 North Senate Avenue

Indianapolis, IN 46204-2251

(317) 234-3386

[mtretter@idem.in.gov](mailto:mtretter@idem.in.gov)

#### **Public Participation and Workgroup Information**

No workgroup is planned for the rulemaking. If you feel that a workgroup or other informal discussion on the rule is appropriate, please contact Manda Clevenger, Rules Development Section, Office of Air Quality at (317) 232-8229 or (800) 451-6021 (in Indiana).

#### **SUMMARY/RESPONSE TO COMMENTS FROM THE FIRST COMMENT PERIOD**

IDEM requested public comment from August 27, 2008, through September 26, 2008, on alternative ways to achieve the purpose of the rule and suggestions for the development of draft rule language. IDEM received no comments in response to the first notice of public comment period.

#### **REQUEST FOR PUBLIC COMMENTS**

This notice requests the submission of comments on the draft rule language, including suggestions for specific revisions to language to be contained in the draft rule. Mailed comments should be addressed to:

#08-674 (APCB) I/M Program - "Antique Vehicle"

Manda Clevenger Mail Code 61-50

c/o Administrative Assistant

Rules Development Section

Office of Air Quality

Indiana Department of Environmental Management

100 North Senate Avenue

Indianapolis, Indiana 46204

Hand delivered comments will be accepted by the receptionist on duty at the tenth floor reception desk, Office of Air Quality, Indiana Government Center North, 100 North Senate Avenue, Indianapolis, Indiana.

Comments may be submitted by facsimile at the IDEM fax number: (317) 233-2342, Monday through Friday, between 8:15 a.m. and 4:45 p.m. Please confirm the timely receipt of faxed comments by calling the Rules Development Section at (317) 233-0426.

#### **COMMENT PERIOD DEADLINE**

Comments must be postmarked, faxed, or hand delivered by March 13, 2009.

Additional information regarding this action may be obtained from Manda Clevenger, Rules Development Section, Office of Air Quality, (317) 232-8229 or (800) 451-6027 (in Indiana).

#### **DRAFT RULE**

SECTION 1. [326 IAC 13-1.1-1](#) IS AMENDED TO READ AS FOLLOWS:

##### **[326 IAC 13-1.1-1](#) Definitions**

**Authority:** [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Sec. 1. The following definitions apply throughout this rule:

(1) "Antique vehicle" ~~has the meaning set forth in [IC 9-13-2-3](#)~~ **means a vehicle that meets the following criteria:**

**(A) The vehicle must be:**

**(i) at least twenty-five (25) years old; and**

**(ii) registered and plated as a historic motor vehicle with the Indiana bureau of motor vehicles.**

**(B) The vehicle is driven a maximum of three thousand (3,000) miles per calendar year.**

**(C) Federally required pollution control equipment for that make and model year vehicle must be in place.**

**(D) The vehicle must be presented at a clean air car check vehicle emission test site in accordance with the applicable test cycle to verify that the requirements of this subdivision have been met.**

(2) "Basic inspection/maintenance (I/M)" means an I/M program that meets the requirements for a basic I/M program as defined in 40 CFR 51, Subpart S\*.

(3) "Bureau" means the bureau of motor vehicles.

(4) "Centralized" means a vehicle emissions testing facility capable of performing enhanced I/M, OBDII, and basic I/M idle testing on motor vehicles.

(5) "Certificate of compliance" means a certificate issued to motor vehicle owners or operators:

(A) passing the emissions test and tampering inspection; or

(B) receiving a waiver pursuant to this rule, which must be presented to the bureau in order to receive a certificate of registration.

(6) "Certified configuration" means an engine or engine-chassis design that has been certified by the U.S. EPA under 40 CFR 86\* prior to the production of vehicles with that design.

(7) "Certified inspection and maintenance (I/M) emissions repair technician" means a technician that has satisfactorily completed approved department certified I/M emission repair technician training.

(8) "Certified inspector" means a contracted employee that has satisfactorily completed approved department certified inspector training.

(9) "Contractor" means any:

(A) offeror or organization selected as a result of the state procurement process to operate a vehicle emission testing program; and

(B) employees of the offeror or organization in clause (A).

(10) "Dedicated alternative fuel vehicle" means a vehicle that is not capable of running on gasoline at any time.

(11) "Department" means the department of environmental management or its contractor.

(12) "Diagnostic trouble code" means a code number generated by a vehicle's on-board computer that corresponds to a specific vehicle component malfunction.

(13) "Dual fuel vehicle" means a vehicle capable of operating on either:

(A) gasoline; or

(B) one (1) of the fuels stated in section 4(b) of this rule.

(14) "Enhanced I/M" means an I/M program that meets the requirements for an enhanced I/M program as defined in 40 CFR 51, Subpart S\*.

(15) "Facility" means a motor vehicle testing location, either mobile or stationary:

(A) operated by the contractor; and

(B) established in accordance with this rule.

(16) "Fleet" means a group of light-duty motor vehicles, medium-duty motor vehicles, or a combination thereof owned or operated by:

(A) an individual;

(B) a company;

(C) a corporation; or

(D) a federal, state, or local government unit.

(17) "Heavy-duty motor vehicle" means a motor vehicle with a gross vehicle weight rating (GVWR) greater than nine thousand (9,000) pounds.

(18) "Idle test" means a single speed idle test as described in 40 CFR 51, Subpart S, Appendix B\*.

(19) "I/M" means inspection/maintenance.

(20) "I/M 240" means a transient emission test as described in 40 CFR 51, Subpart S, Appendix B\*.

(21) "I/M 93" means a version of I/M 240 that:

(A) is shorter in duration by utilizing only phase I (ninety-three (93) second drive trace) of the I/M 240 driving cycle; and

(B) allows a second attempt to pass.

(22) "Light-duty motor vehicle" means a motor vehicle with a GVWR less than or equal to six thousand (6,000)

pounds.

(23) "Medium-duty motor vehicle" means a motor vehicle with a GVWR of:

(A) six thousand one (6,001) pounds or greater; and

(B) less than or equal to nine thousand (9,000) pounds.

(24) "Motor vehicle" means a self-propelled vehicle used on the public roads.

(25) "Motor vehicle emission inspector" means an individual meeting the requirements of section 15 of this rule.

(26) "Motor vehicle model year" or "model year" means the date of manufacture of the original motor vehicle within the annual production period of the motor vehicle as designated by the manufacturer.

(27) "Motorcycle" means a motor vehicle:

(A) having a seat or saddle for the rider; and

(B) designed to travel on not more than three (3) wheels in contact with the ground.

(28) "OBDII" means second generation on-board diagnostics systems.

(29) "Pressure test" means a test that pressurizes the evaporative system to check for leakage as described in "IM240 & Evap Technical Guidance", EPA420-R-00-007, April 2000\*\* and 40 CFR 51\*.

(30) "Purge test" means a test that measures the total purge flow occurring in the vehicle's evaporative system during the transient dynamometer emission test as described in "IM240 & Evap Technical Guidance", EPA420-R-00-007, April 2000\*\* and 40 CFR 51\*.

(31) "Recall" means a voluntary emissions recall as described in 40 CFR 85.1902(d)\*.

(32) "Show vehicle" means a vehicle that meets the following criteria:

(A) The vehicle must be exhibited at a car show at least twice a calendar year as verified through car show registration or entrance forms.

(B) The vehicle shall be restricted to the addition of three thousand (3,000) miles per calendar year to the vehicle.

(C) The condition of the vehicle must be show quality, indicated by the interior and exterior of the vehicle maintained in good condition.

(D) The vehicle must be presented at a clean air car check vehicle emission test site in accordance with the applicable test cycle to verify that it is still a show vehicle.

(33) "Tampering check" means a visual inspection of the following:

(A) Catalytic converters.

(B) Fuel filler caps.

(C) Positive crankcase ventilation (PCV) systems.

(D) Evaporative systems.

(34) "VIN" means vehicle identification number.

\*These documents are incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204.

\*\*This document is incorporated by reference. Copies are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204.

*(Air Pollution Control Board; [326 IAC 13-1.1-1](#); filed Jun 21, 1995, 4:00 p.m.: 18 IR 2730; filed Dec 23, 1998, 4:44 p.m.: 22 IR 1463; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477; errata filed Dec 12, 2002, 3:35 p.m.: 26 IR 1570; filed Aug 26, 2004, 11:30 a.m.: 28 IR 76; filed Mar 20, 2008, 11:11 a.m.: [20080416-IR-326060284FRA](#))*

### [Notice of Public Hearing](#)

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An [html](#) version of this document.